

Service Date: June 9, 1977

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF the APPLICATION by)	UTILITY DIVISION
THE MONTANA POWER COMPANY for)	
authority to increase rates for electric and)	DOCKET NO. 6454
natural gas service and requesting approval of)	ORDER NO. 4350
certain changes in the regulations covering such)	
service.)	

FINDINGS OF FACT

1. On July 19, 1976, The Montana Power Company (Applicant) filed with the Public Service Commission (Commission) a "Complaint and Petition" which sought authorization to increase Applicant's electric rates by approximately \$47 million and natural gas rates by approximately \$21.1 million.
2. On September 30, 1976, Applicant transmitted to the Commission an application, based on forecast 1977 conditions, which sought rate increases of \$47,768,634 for electric service and \$20,902,859 for natural gas service. These amounts included \$15.8 million for electric service and \$6.8 million for natural gas service which were then pending in Applicant's rate increase requests in Docket No. 6348.
3. An Order for Procedure, which set out a timetable and procedural guidelines for the disposition of Docket No. 6454, was adopted by the Commission on January 4, 1977. These procedural guidelines had been formulated at a prehearing conference on December 16, 1976. In order to insure notice to the public and a full opportunity to participate in the development of these guidelines, a public notice of the prehearing conference was published in thirteen newspapers of general circulation in the state.
4. On February 23, 1977, the Commission issued its Order No. 4220C in Docket No. 6348. The revenues granted in that Order reduced Applicant's revenue request in this Docket by \$2,069,000 for electric service, and \$4,525,483 for natural gas service.

5. On April 1, 1977, Applicant filed its Motion for Temporary Rate Increase with proposed temporary rate schedules attached. The Motion requested Commission approval of rates, subject to rebate, designed to produce estimated increased annual revenues of \$27,011,200 for the electric utility and of \$20,877,747 for the natural gas utility. The rate increases requested by the Motion were based on the rate of return allowed by the Commission in its Order 4220C applied

to Applicant's year-end 1976 investment in utility plant.

6. The application in this Docket was amended on April 22, 1977, to reflect known changes through April 12, 1977. This amendment, which resulted from adjustments to both the previously filed revenue and expense levels, resulted in new requests of \$45,391,564 for electric service and \$30,801,789 for natural gas service.

7. On May 5, 1977, the Commission received, pursuant to its Order for Procedure, the prefiled testimony of George F. Hess on behalf of the Montana Consumer Counsel. Based on an adjusted pro forma 1976 test year, and an average rate base, Hess determined revenue deficiencies at present rates of \$13,090,000 for Applicant's electric utility, and of \$11,862,000 for Applicant's natural gas utility (Exhibit GFH-1, Schedule 14). Hess' computation of revenue deficiencies employed the recommended rates of return of Consumer Counsel witness Dr. John W. Wilson. These amounts appear to be the lowest revenue levels which could be granted in the Commission's final Order in this Docket, based on the prefiled testimony. .

8. On May 10, 1977, Applicant, in its "Response To Objections To Its Motion For A Temporary Rate Increase," asked the commission to approve on a temporary basis: (a) the full amount of the revenues sought in the amended application; or (b) the revenues sought in Applicant's April 1 Motion for a Temporary Rate Increase; or the revenue levels conceded by witness George F. Hess, as discussed above.

9. Upon request of Applicant, an oral argument on Applicant's Motion for Temporary Increases was scheduled for June 3, 1977, at the Commission's office in Helena. The notice was mailed to the current service list in this Docket, and was mailed to thirteen newspapers in the state as a news item.

10. The June 3 oral argument was conducted before the five members of the Commission. It was

attended by representatives of the Applicant, and of intervenors Montana Consumer Counsel, Department of Defense, Great Falls Gas Company, Anaconda Company, and Ideal Cement Company, all of whom offered their views on Applicant's Motion.

11. On June 7, 1977, a legal notice of hearing in this Docket was mailed to the current service list and to thirteen newspapers of general circulation in this state.

12. Pursuant to established Commission policy, a printed agenda stating that Applicant's Motion for Temporary Increases would come before the Commission on June 9, 1977, at 9:00 a. m., was mailed to the news media in the Helena area.

13. Both the application and Applicant's April 1 Motion for Temporary Increases asked that any electric revenue increase be distributed to all customer classes on the basis of a uniform percentage increase. The natural gas rate structure proposed in the application and the April 1 Motion is a result of applying a uniform percentage to the rate levels established by the Commission's 1972 rate decision (Order No 4068), and adding on all purchased gas cost increases since 1972 to all customer classes on a uniform cents per mcf basis.

14. The basic electric rate structure design proposed by Applicant is supported by a cost of service study presented in this case by Richard Pierce of Ebasco Services, Inc. This study was presented previously in Docket No. 6348. In the Commission's Order No 4220C in that Docket it was determined that Pierce's electric cost of service study was of little merit, as it relied on "synthetic" load data originally developed in 1958 on the Pacific Power and Light Company system in Oregon.

15. The Commission has not yet had the opportunity to study the Ebasco natural gas cost of service study offered in this case. Neither the Commission examined the combination uniform percentage volumetric gas rate increase spread advocated by Mr. Heidt.

16. Until such time as the Commission has had an opportunity to study the proposed rate structures, and the supporting testimony of both Mr. Pierce and Mr. Heidt, distribution of the revenues approved herein on a temporary basis to all classes on a uniform, constant cents per mcf and cents per kwh basis is justified. This approach has the impact of spreading the revenue increases evenly to all customer classes. Because the increases approved herein are granted subject to rebate, any inequities which might ultimately be determined to result from this approach can be addressed and remedied by the Commission's

final Order in this Docket.

17. The volumetric increase ordered herein is the same approach followed in Order No. 4220C. Because a temporary utility whole pending disposition of general rate increase proceedings, the emphasis in this Order must be on rate levels and past practice as to rate structure should apply until the Commission has had an opportunity to fully evaluate the evidence after a full hearing.

CONCLUSIONS OF LAW

1. Applicant is a public utility furnishing electric and natural gas service to consumers in this state. Applicant's service and rates are subject to the regulatory jurisdiction of this Commission.

2. Revised Codes of Montana 1947, Section 70-113, as amended, provides in part "The Commission may, in its discretion, temporarily approve increases pending a hearing or final decision."

3. The Commission has provided full and adequate public notice of all proceedings in this Docket.

4. The conceded rate levels and the rate structures approved herein are a reasonable means of providing interim relief to the Applicant. The rebate provision of Section 70-113 is a safeguard against any charges approved herein which might ultimately be determined unreasonable.

ORDER

THE MONTANA PUBLIC SERVICE COMMISSION ORDERS THAT:

1. Applicant is ordered to submit for Commission approval rate schedules effective for the first full billing period after June 20, 1977, which will generate the revenues conceded by the Montana Consumer Counsel to be justified, as stated in Finding No. 7, less any, natural gas revenues not contained in Order No. 4220C which are now being collected under Applicant's contracts with its industrial gas customers The increased revenues authorized

herein shall be added to the rate forms approved in Order No. 4220C.

2. The increase granted herein is subject to rebate should the final order in this Docket determine that a lesser increase than authorized by this Order is required.

3. In the event a rebate is directed by the final Order in this Docket, provision shall be made in that Order to cause all uncollected rebates to be escheated to the State of Montana in the manner provided by law. Any rebate ordered shall bear an interest rate of 10% on an annual basis from the time collected.

DONE IN OPEN SESSION this 9th day of June, 1977, by a vote of 4-1.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

Gordon E. Bollinger, Chairman

P.J. Gilfeather, Commissioner

Thomas J. Schneider, Commissioner
Voting to concur with the majority.

James R. Shea, Commissioner
Voting to dissent.

George Turman, Commissioner

ATTEST:

Gail E. Behan
Secretary

NOTICE: You are entitled to judicial review of this Order.
 Judicial review may be obtained by filing within thirty (30)
 days from service of this Order a petition for review
 pursuant to Section 82-4216, RCM 1947.

I, Public Service Commissioner, James R. Shea, hereby strongly disagree and dissent with the forewritten Order No.4350, Docket No. 6454. My dissent is as follows:

Article II, Section 8 of the Montana Constitution provides that the public has a right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to a final decision as may be provided by law. Article II, Section 9, provides that no person shall be deprived of the right to examine documents and to observe the deliberations of all public bodies or agencies of the state government.

Arguments by the Montana Power applicant and by the Protestant Consumer Counsel and others were heard by the Montana Public Service Commission on Friday, June 3, 1977, relative to the temporary requests.

Prefiled testimony as is being used in this case is a radical change in long established Commission procedure. This greatly affects the Consumers of Montana--the vast general public. The public is not given an equal opportunity to be heard in the case. The public or many parts thereof do not have attorneys to represent them and therefore their right to be heard is severely diminished by this procedure.

I have been unable to find anywhere in public newspapers where a notice or news article was published that the matter of temporary rate increase would be argued before the Montana Public Service Commission on June 3, 1977.

By this absence of notice or publication I am not finding fault with the Commission, its staff or the newspapers. These are periods in time of an extraordinary heavy work load brought on by inflation and the energy crisis. No one is perfect. Errors and omissions will be made and life will go on, however, to vote for this temporary rate increase which is of such magnitude to the general public without sufficient notice of the right to hear and be heard gives me great concern. To be silent on the matter to me would mean that I would be in default of my duty. Utilities are being pressed financially. Some of the pressure utilities are facing have been self imposed.

Their direct pressure is a corporate pressure felt by the corporate body. This pressure is entirely different than individual and family pressures. The financial pressure to meet increased utility costs will be greatly felt by many of our elderly citizens and those persons and families living on

fixed incomes. Many of these people will find the burden of higher utility costs very difficult to bear. Many have extremely limited financial resources.

I believe the utilities have not addressed the seriousness of the need of many of our citizens to have an energy supply -- essential to their basic needs--as their resources will permit them to purchase and at rates which they can afford.

This Commission has granted a temporary increase request of the Montana Power Company to place an additional burden of \$24,952,000 on the consuming public. This has been done in my opinion without the public having the right to be heard and without sufficient public notice. Does not this method of hearing arguments before the Montana Public Service Commission give the utilities an edge in the treatment of the case and doesn't it handicap the general public?

Actions of this kind were not meant and intended by those that labored to frame the Montana Constitution so that Montana people would have equal rights of participating before governmental agencies.

The Montana Consumer Counsel and the Department of Defense of the United States have tendered written objections to the temporary rate increase sought by the Montana Power Company.

I therefore join them in their position by dissenting in this decision.

JAMES R. SHEA, Commissioner
District 4

ATTEST:

GAIL E. BEHAN
Secretary
(SEAL)